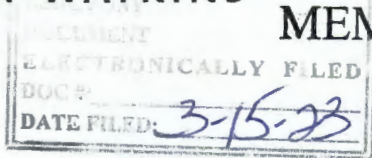**Eric F. Leon**
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March 6, 2023

VIA ECF

Granted

SO ORDERED

Honorable Lewis A. Kaplan
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

LEWIS A. KAPLAN, USDJ

3/15/23

Re: *In re Matter of the Ex Parte Application of B&C KB Holding GmbH for an Order to take Discovery Pursuant to 28 U.S.C. § 1782 from Goldberg Lindsay & Co. LLC d/b/a Lindsay Goldberg and Michael Dees*, Case No. 1:22-mc-00180-LAK-VF

Dear Judge Kaplan:

On behalf of Respondents, we write pursuant to Your Honor's Individual Rules of Practice to respectfully request leave to file certain information under seal in connection with Respondents' Objection to Magistrate Judge Figueredo's Order granting B&C KB Holding GmbH's ("B&C") *Ex Parte* Application for Discovery Pursuant to 28 U.S.C. § 1782. Specifically, Respondents seek leave to redact references in the Objection to documents that were previously submitted in this matter and sealed pursuant to Magistrate Judge Figueredo's February 14, 2023 Order (the "Order") (ECF No. 48) (the "Previously Sealed Documents").

"[T]he decision as to access is one best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 599 (1978) (internal citations omitted)). In exercising that discretion, courts consider "whether good cause exists to overcome the presumption of open access to documents filed," *Geller v. Branic Int'l Realty Corp.*, 212 F.3d 734, 738 (2d Cir. 2000), and they must "balance competing considerations against" access, including but not limited to "the danger of impairing law enforcement or judicial efficiency" and "the priva[te] interest[] of those resisting disclosure," *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (internal quotations and citations omitted). Courts permit sealing when it "is essential to preserve higher values and is narrowly tailored to serve that interest." *Id.* (quoting *In re New York Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987)).

In accordance with the Order, Respondents seek to redact references to the Previously Sealed Documents, which (i) include documents at issue in a pending confidential arbitration by B&C against Atlas Flexibles Coöperatief U.A. ("Atlas") and Lindsay Goldberg Europe GmbH ("LGE"); (ii) reflect sensitive, non-public financial and business information of Atlas, LGE, and other parties; (iii) contain identifying information regarding allegations made against or regarding

March 6, 2023
Page 2

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specific individuals based in Europe in confidential and/or non-public proceedings, and therefore implicate Regulation (EU) 2016/679 (the "GDPR"); and (iv) implicate the privacy interests of third parties, including concerning their confidential business interests and unadjudicated allegations of wrongdoing. Order at 2. For the reasons set forth in their prior requests, *see* ECF Nos. 19, 33, and pursuant to the Order, Respondents request leave to redact references to the same documents in their Objection. Respondents greatly appreciate the Court's attention to this matter.

Respectfully submitted,

/s/ Eric F. Leon

Eric F. Leon
of LATHAM & WATKINS LLP

cc: All counsel of record (via ECF)